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ABSTRACT

This document presents a sample request for proposal that Arizona school districts can use when requesting architectural services, from the general request requirements to response information and signature sheet. General proposal requirements cover such areas as information on special terms and conditions, the scope of architectural services required, proposal rules for late submissions and withdrawal, payments, taxes, contract awarding, proposal format, key personnel, and licenses. A sample contract is included. (GR)

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ED 452 678

Sample RFP for Architectural Services 2000

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ARCHITECTURAL SERVICES

Request for Proposal #____

[District Name]
[Address]
[City, State, Zip]

[Phone Number]
[Fax Number]

Proposals will be due
on [date], at [time] P.M.
at the address shown above

PRE-PROPOSAL CONFERENCE
[day, date, time]
IN THE [LOCATION] AT
THE ADDRESS SHOWN ABOVE

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EXHIBIT A—CONTRACT ..... Attached

SCHEDULE OF EVENTS

A. **Mailing of Requests for Proposal:**

Date: _____

B. **Deadline for submitting proposals in the Business Office of Fountain Hills Unified School District:**

Date and time: _____

Proposals will be opened immediately thereafter; offerors are invited to attend the opening.

C. **Evaluation of proposals and selection of the offeror(s) to be recommended:**

Date: _____

D. **Pre-Proposal Conference:**

Date: _____

E. **Approval by the Governing Board:**

Date: _____

F. **Issuance of purchase order**

Date: _____

G. **Work to begin:**

Date: _____

GENERAL REQUIREMENTS

[Name of School District]

REQUEST FOR PROPOSAL #_____

INSTRUCTIONS TO VENDORS

The submission of a proposal will indicate that the offeror (1) has read the instructions, (2) will abide by the terms and conditions governing this Request for Proposal, and (3) understands the requirements for delivery of the services specified. *Hereinafter, [District name] School District may be referred to as "the District."*

A. GENERAL INSTRUCTIONS

A-1. Specifications contained in the Request for Proposal are for **Architectural Services**.

A-2. Minimum requirements are specified. The offeror may choose to exceed those minimums.

A-3. *Failure to provide sufficient information may result in the proposal not being considered.*

A-4. If you do not wish to offer ARCHITECTURAL SERVICES but wish to remain on our bidders' list, please mark the proposal form "NO PROPOSAL," complete the signature page, and return it to the District. If you fail to respond to two (2) consecutive Invitations for Bid, Requests for Proposal, or Requests for Quotation, your name may be dropped from our bidders' list for the respective services. You may be reinstated for the items by submitting a written request.

A-5. All information required in the Request for Proposal, except the signature, should be typewritten for legibility. The signature must be handwritten. Illegible or vague proposals will be rejected.

A-6. No alterations, erasures, or additions to the signature page are to be made in the typewritten or printed matter unless initialed in ink. The offeror's name must be typewritten, and the signature must be handwritten.

a. NOTE: *If the proposal is not properly signed, it will be considered nonresponsive.* "Properly signed" means that only the actual signature of the offeror will be accepted as valid. The signature must be in ink. *An initialed signature by a second party will not be valid.*

A-7. Proposals are to be mailed or delivered to [School District name and address], to arrive no later than the closing date and time specified in the Schedule of Events provided herein.

A-8. Each proposal must be clearly marked on the outside of the envelope with the title "RFP #_____," the name of the offeror, and the closing date and time specified in this Request for Proposal.

A-9. Each proposal will be time stamped. Proposals will be accepted up to, and no later than, the time indicated in the Request for Proposal. Any received after that time will be placed in the file unopened, and will be returned only upon request by, and at the expense of, the offeror. The offeror(s) will assume responsibility for delivery on time at the place specified, whether sent by mail or delivered in person.

A-10. Telephone, facsimile, or telegraphic proposals are not acceptable.

A-11. An offeror solicitation protest must be filed before the proposal opening. A protest of a proposed award must be filed within ten (10) days after the protester knows, or should have known, the basis of the protest. The protest must include the following information:

1. The name, address, and telephone number of the protester.

2. The signature of the protester.

3. Identification of the proposal title and number.

4. A detailed statement of legal and factual grounds of protest, including copies of relevant documents.

5. The form of relief requested.

A-12. Any and all protests must be filed initially with _____, the District's _____, who shall issue a written decision within fourteen (14) days after a protest has been filed. If an appeal is denied, the protester may submit the appeal with all documentation within ten (10) days to the District Governing Board. Appeals are to be made in accordance with Arizona

State Board of Education Procurement Rules R7-2-1141 through R7-2-1153.

A-13. After contract award, all confidential/proprietary information submitted in the proposal shall be available for public inspection unless the offeror designates in writing that confidential portions contain trade secrets or other proprietary data. The statement advising the Governing Board of this fact shall accompany the submission of the proposal. The information identified by the offeror as confidential shall not be disclosed until the District's _____ makes a written determination. The _____ shall review the statement and information and shall determine, prior to contract award, whether the information shall be withheld. If the _____ determines to disclose the information, the offeror shall be informed of such determination in writing.

B. SPECIAL TERMS AND CONDITIONS

B-1. By submitting this proposal, the offeror certifies that:

a. The offeror will protect the District and its Governing Board from all claims for patented articles, processes, materials, inventions, and appliances in connection with fulfillment of this Request for Proposal, at the offeror's own expense.

b. The offeror will follow the Arizona State Board of Education Procurement Rules regarding protests, appeals, hearings, contract claims, and controversies.

c. All services proposed *will meet all national, state, and city codes and requirements.*

d. The offeror is not in bankruptcy.

B-2. If the successful offeror fails to meet any specified delivery schedules, the District shall have the option of canceling any and all purchase orders or contracts issued to the offeror in connection with this Request for Proposal.

B-3. The successful offeror shall not be held responsible for any losses resulting if fulfillment of the contract shall be delayed or prevented by wars, acts of public enemies, strikes, acts of God, or any other acts not within the control of the successful offeror and which by the exercise of reasonable diligence the offeror is unable to prevent.

B-4. Payment will be made only after submission of proper invoices as required by the District and within applicable state law. Payment of any claim shall not preclude the District from making claim for adjustment on any invoice found not to have been in accordance with the general conditions and specifications.

B-5. The purpose of this Request for Proposal is to enter into a multiple-year contract to provide ARCHITECTURAL SERVICES, with an annual option to renew, providing funds are appropriated.

B-6. Each proposal is an irrevocable offer for ninety (90) days after the proposal opening time and date.

B-7. It is the intent of the District to award a contract for specified services beginning during the school year _____ , under the proviso that funds are appropriated to support continuation of services for a succeeding fiscal period. Upon approval by the District Governing Board, the original contract may be renewed annually for a total time of contract not to exceed five (5) fiscal years. Renewal shall be by mutual agreement between the awarded offeror and the District. However, no contract will exist unless and until a purchase order is issued each fiscal year. If the successful offeror shows proof of service in areas other than architectural services, the District will negotiate reasonable fees.

B-8. The District reserves the right to unilaterally extend the period of any resultant contract for thirty-one (31) days beyond the stated expiration date. In addition, by mutual written agreement, any resultant contract may be extended for supplemental periods of 12 months, with the total of the original term plus extensions not to exceed 60 months. Renewals will be issued when funds are appropriated.

B-9. The District reserves the right to cancel the whole or any part of an awarded contract as a result of failure by the offeror to carry out any term, promise, or condition of the contract. The District will issue a written ten (10) day notice of default to the offeror for acting or failing to act in event of any of the following:

a. In the opinion of the District, the offeror provides services that do not meet the requirements of the contract.

b. In the opinion of the District, the offeror attempts to impose on the District services or workmanship that is of an unacceptable quality.

c. The offeror fails to complete the required work within the time stipulated in the contract.

d. In the opinion of the District, the offeror fails to make progress in the performance of the requirements of the contract and/or gives the District a positive indication that the offeror will not or can not perform to the requirements of the contract.

B-10. The Superintendent, by written notice, may terminate any contract when it is determined that the contract is not in the best interest of the District.

B-11. The purchase order will specify the services to be performed, and any other pertinent information required. All District and offeror documents must reference the resultant contract by purchase order number.

B-12. For the purpose of questions pertaining to the Request for Proposal, the individual who will work with the offeror, furnish information, answer questions, direct the offeror's efforts, provide guidance, etc., is:

[Name]
[Address]
[City, State, Zip]
[Phone number]
[Fax number]

B-13. _____ (___) copies of each proposal must be submitted on the forms and in the format as contained in this Request for Proposal. The cost of proposal submittal is the responsibility of the offeror. The District will not make reimbursement for such expenses. The material must be in sequence and related to the Request for Proposal, and shall conform to the areas of consideration outlined in D-2.(a.)—*presented approach*, D-2.(b.)—*project personnel*, D-2.(c.)—*specialized experience*, and D-2.(d.)—*cost control*. Please index tab these four areas.

B-14. Upon award and performance of services, the offeror shall submit to the District a monthly statement of charges for the previous month. The statement shall include a record of the services performed and hours expended, in sufficient detail to justify payment. The District shall process the claim for prompt payment in accordance with the standard operating procedures established by the Maricopa School Superintendent's Office and the State of Arizona as contained in the Uniform System of Financial Reporting.

B-15. The obligation of the District for performance of the contract beyond the current fiscal year is contingent upon the availability of funds from which payment for contract purposes can be made. No legal liability on the part of the District for any payment may arise for performance under any contract resulting from this Request for Proposal beyond the current fiscal year unless funds are made available for continuing such contract.

B-16. The District may undertake or award contracts for additional services, and the offeror shall fully cooperate with such other service providers or District employees. The District shall equitably enforce this section as to all personnel, to prevent imposition of unreasonable burdens on any one area.

a. The District may resort to either or both of the following actions to maintain a desired quality of work ethics:

(1) Canceling of any contract order for any reason.

(2) Reserving all rights or claims to damage for breach of any covenants of the contract.

B-17. In case of default, the District reserves the right to resubmit a request for proposal to replace necessary services. The District may recover any actual excess costs by deduction from an unpaid balance.

C. SPECIFIC CONDITIONS

C-1. _____

C-2. _____

C-3. The District intends to select an architectural firm for the work included within this Request for Proposal. District work will be coordinated with the Project Manager. The Project Manager and the Architectural Firm will work together in the best interest of the District.

C-4. The District will create one short list for personal interviews. The personal interviews will be conducted by the Project Manager and the District Evaluating Committee.

C-5. It shall be the offeror's responsibility to ensure compliance with this Request for Proposal by completion of all information as requested, inclusion of limitations, time schedules, and progress reports for

evaluation, and any other information or service that may be required for proper evaluation of the offeror's proposal. Failure to comply with any requirement of this Request for Proposal may result in rejection of the proposal or declaration of the proposal as nonresponsive.

C-6. The form of the contract for beginning service shall be a properly executed purchase order and signed contract. (A contract example is supplied herewith—see Exhibit A).

C-7. By submission of a proposal the offeror certifies that:

a. The offeror has not paid or agreed to pay any person, other than a bona fide employee of the offeror, a fee or brokerage resulting from the award of this contract.

b. The prices in this proposal have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition as to any matter relating to such price with any other offeror(s).

c. If awarded a contract, the offeror must agree not to discriminate against any employee or applicant for employment on the basis of race, religion, creed, sex, disability, age, or national origin.

C-8. In order to ensure quality education and assistance in transition to new classrooms or buildings, the selection committee will determine if the credentials of the offeror(s) meet or exceed its expectations, and the recommendation will be made upon their approval.

D. PROPOSAL EVALUATION AND AWARD

D-1. The District will award a contract/agreement to the offeror that provides the greatest promise, best references, highest previous performance standards, and desired quality of workmanship.

D-2. The District and the Project Manager will evaluate each proposal submitted and may accept any proposal deemed to be in the best overall interests of the District. The District reserves the right to reject any or all proposals, or any portions thereof, and to waive any informality or technicality in any proposal received. The selection of an offeror or offerors is not required. Primary considerations for evaluation are:

a. ***Presented approach.*** Indication that the firm understands the project and has a clear method of approach.

b. ***Project personnel.*** Adequacy of staffing size, availability, and experience to perform the proposed work.

c. ***Specialized experience.*** Presented documentation of specialized experience in areas represented by the specified [K–8 *or* K–12] projects.

d. ***Cost control.*** Previous record in meeting budgets and the proposed plan for controlling costs on the project.

D-3. The District reserves the right to make awards at any time within ninety (90) days after the date of the proposal opening, during which time proposals may not be withdrawn unless authorized by the District.

E. SCOPE OF ARCHITECTURAL SERVICES REQUIRED

E-1. Refer to the contract in Exhibit A.

F. LATE SUBMITTALS

F-1. An offeror submitting a late proposal will not be considered except as provided by the Arizona State School District Procurement Code.

G. WITHDRAWAL OF PROPOSAL

G-1. At any time prior to the specified proposal due time and date, an offeror (or designated representative) may withdraw the proposal.

H. AMENDMENT OF REQUEST FOR PROPOSAL

H-1. Receipt of an Amendment to the Request for Proposal must be acknowledged by signing and returning the document along with the proposal.

I. PAYMENT

I-1. The District will make every effort to process payment for the purchase of goods or services within a reasonable period of time after receipt of goods or services and a correct notice of amount due unless a good-faith dispute exists as to any obligation to pay all or a portion of the amount. Any offer that requires payment in less than 30 calendar days may not be considered.

J. TAXES

J-1. The District is exempt from federal excise tax, including the federal transportation tax. Exemption certificates will be furnished upon request. Out-of-state vendors/contractors are cautioned that current Arizona state law allows for payment of sales tax directly to the vendor/contractor. If taxes are due, they must be included with the original invoice. The District will not be responsible for payment of sales or use taxes if not billed by the vendor/contractor. Be aware that there is no sales tax on the labor portion of the work. Therefore, in the event of an audit, if the governing authority requires payment of taxes, the District will not be liable. Each vendor/contractor must include the applicable tax rates in the space provided.

K. AWARD OF CONTRACT

K-1. The District reserves the right to award contracts for individual projects or for any combination of projects deemed to be most advantageous to the District. Only the District knows what is most advantageous to itself.

K-2. Notwithstanding any other provision of the Request for Proposal, the District expressly reserves the right to:

a. Waive any immaterial defect or informality; or

b. Reject any or all proposals, or portions thereof; or

c. Reissue an invitation for proposal.

K-3. The District Governing Board reserves the right to award a contract in the best interest of the District. The Governing Board's decision will be final.

L. DELIVERY

L-1. Proposals are to be delivered to the District administration office, at the address shown on the cover sheet of this Request for Proposal, by the due date and time. _____ *(__) copies are to be submitted,* including *one* with original signatures.

M. SPECIAL TERMS AND CONDITIONS

M-1. *PURPOSE.* The purpose of this Request for Proposal is to enter into a contract with a qualified architectural firm to provide ARCHITECTURAL SERVICES to the District.

M-2. *PROPOSAL OPENING.* Proposals shall be opened publicly at the time and place designated on the cover page of this document. The name of each offeror shall be read publicly and recorded. All other information contained in the proposals shall be confidential so as to avoid disclosure of contents prejudicial to competing offerors during the process of negotiation. Proposals will not be subject to public inspection until after contract award.

M-3. *OFFER AND ACCEPTANCE PERIOD.* A proposal is an irrevocable offer for ninety (90) days after the bid opening time and date.

M-4. *TERM OF CONTRACT.* The term of the resultant contract shall commence upon award and shall remain in effect until completion, inspection, and final acceptance of specified project(s) unless terminated, canceled, or extended as otherwise provided herein.

N. PROPOSAL FORMAT

N-1. Proposals shall be submitted in the format outlined below. This material must be in sequence and related to this Request for Proposal. _____ (___) copies of the proposal must be submitted and will be screened by a selection committee of approximately five members. The District will make no reimbursement for the cost of developing or presenting proposals in response to this Request for Proposal. The number of attachments and exhibits is unrestricted. Only information specifically related to this type of project will be evaluated.

O. KEY PERSONNEL

O-1. It is essential that the Architect provide an adequate staff of experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this contract. The Architect must agree to assign specific individuals to the key positions, and résumés for such individuals must be included in the proposal.

a. The Architect agrees that, once assigned work under this contract, key personnel shall not be removed or replaced without written concurrence by the District.

b. If one of the key persons is unavailable for work under this contract for a continuous period exceeding thirty (30) calendar days, or is expected to devote substantially less effort to the work than initially anticipated, the Architect shall immediately notify the District, and shall, subject to the concurrence of the Project

Manager, replace such individual with personnel of substantially equal ability and qualifications.

P. LICENSES

P-1. The Architect shall maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by the Architect as applicable to the awarded contract.

RESPONSE INFORMATION

Q. REFERENCES AND QUALIFICATIONS

Q-1. Please list three (3) or more current client references relative to your having served schools or school districts in construction projects similar in size and complexity to that of the District. Letters of recommendation may be included in your proposal.

a. Name: _____

Address: _____

Contact name: _____

Telephone number: _____

b. Name: _____

Address: _____

Contact name: _____

Telephone number: _____

c. Name: _____

Address: _____

Contact name: _____

Telephone number: _____

d Name: _____

Address: _____

Contact name: _____

Telephone number: _____

SIGNATURE PAGE

[SCHOOL DISTRICT NAME]
Request for Proposal—RFP #_____

Authorized signature: _

Individual's name (typed): ____

Title (affix seal if a corporation): _____

Business name
(if applicable): _

Mailing address __

Social Security number or
business license number: _____

Sales tax rate (%) _____ percent

Current Arizona licenses:_____

Include current Form 254 for your firm.

Date: _____ Phone:_____ Fax:_

Proposals must be signed to be valid.

PLEASE NOTE:
YOUR PROPOSAL WILL BE DUE ON
[DATE AND TIME]

[SCHOOL DISTRICT NAME]
[Address]
[City, State, Zip]

EXHIBIT A

PROJECTED AGREEMENT
BETWEEN ARCHITECT
AND
[SCHOOL DISTRICT NAME]

AGREEMENT BETWEEN ARCHITECT AND [DISTRICT NAME]

BY THIS AGREEMENT, effective this _____, 2001, by and between [DISTRICT NAME] ("the District"), an Arizona school district organized and operating under the laws of the State of Arizona, and _____("the Architect"), the District and the Architect enter into the following contractual arrangement:

A. PURPOSE AND SCOPE

A-1. The District and the Architect agree that the Architect intends to provide the Architectural, Engineering, and limited Construction Administration Services for renovation and modernization of the existing school (the "Project") located in [City or Town], [County], Arizona. The Architectural and Engineering Services provided will ensure that the Project meets and/or exceeds the minimum Adequacy Guidelines set forth by the State of Arizona School Facilities Board and that the design will adhere to a project allocation amount based upon $_____ per square foot.

A-2. BY THIS AGREEMENT, the Architect agrees to perform all Professional Services for the District's development of the Project.

B. DEFINED TERMS

- ADDITIONAL SERVICES means the services described in Section L.
- AGREEMENT means this Agreement between the Architect and the District.
- ALLOCATED AMOUNT means the sum allocated by the District for the construction of the Project.
- ARCHITECT shall have the meaning set forth in the introductory paragraph of this Agreement.
- BASIC PROJECTED ARCHITECTURAL SCHEDULE is the schedule for completing the design and construction of the Project.
- BASIC SCOPE of the Project is set forth in the Contract.
- BASIC SERVICES means the services described in Sections F through L.
- BEST PROFESSIONAL JUDGMENT means the judgment of the Architect or Consultant, which is the most prudent and diligent in light of all facts and conditions that are known or reasonably should be known or foreseen by the person making that judgment, based upon the training, experience, and skill exercised by reputable persons in the same profession under similar circumstances.
- CERTIFIED LAND SURVEY shall have the meaning set forth in Section M.
- CONSTRUCTION COST means the figure determined in accordance with Section O.

- PROJECT MANAGER is the entity selected by the District to provide construction management services in connection with the Project. The Project Manager will function as the District's Representative.
- CONTRACT means the Contract and General Conditions between the District and the Contractor, and all documents incorporated therein.
- CONTRACTOR means the party entering into the Contract with the District for the construction of the Project.
- DESIGN DEVELOPMENT DOCUMENTS shall have the meaning set forth in Section G.
- DIRECT PERSONNEL EXPENSES shall have the meaning set forth in Section P.
- DISTRICT shall have the meaning set forth in the introductory paragraph of this Agreement.
- EDUCATIONAL SPECIFICATIONS shall mean the educational specifications for the Project.
- FIELD INSPECTION REPORTS shall have the meaning set forth in Section J.
- GOVERNING BOARD means the Governing Board of the District.
- HIGHEST PROFESSIONAL STANDARD means the highest degree of skill, ability, and judgment demonstrated in like situations by reputable members of the same profession under similar circumstances.
- INSPECT means to view closely in critical appraisal as to the quality of Work performed or of the product itself, using the degree of professional training, experience, and skill exercised by reputable persons in the same profession under similar circumstances.
- PREBID CONSTRUCTION SCHEDULE shall have the meaning set forth in Section I.
- REIMBURSABLE EXPENSES shall mean the expenses described in Section K.
- SCHEMATIC DESIGN STUDY shall have the meaning set forth in Section F.
- STATEMENT OF PROBABLE CONSTRUCTION COSTS shall have the meaning set forth in Section F.
- WARRANT shall mean to promise that a certain fact or state of facts is as it is represented to be.
- WARRANTY shall mean a promise that a certain fact or state of facts is as it is represented to be.
- WORK shall have the same meaning as used in the Contract and shall include the furnishing by the Contractor of all labor necessary to produce the construction required by the Contract and furnishing and installing all materials and equipment incorporated, or to be incorporated into the Project.
- WORKING DRAWINGS AND SPECIFICATIONS shall have the meaning set forth in Section H.
- All capitalized terms used herein and not otherwise defined shall have the meaning set forth in the Contract.
- SECTION, when used herein, shall refer to the corresponding Section in this Agreement.

C. COMPENSATION

C-1. The Architect's compensation for professional services rendered shall be paid by the District consistent with Section Q and other provisions of this Agreement as follows:

a. The total fee for Basic Services: _____. This amount is _____% of the Construction Cost. Payment shall be made as provided in

Section Q. Payments for Basic Services shall be made for each phase in an amount equal to the following percentages of the total fee for Basic Services payable for the Project.

Schematic Design Phase	20%
Design Development Phase	15%
Construction Documents Phase	40%
Bidding Phase	5%
Construction Administration Phase	20%

This percentage-based fee may be converted to a lump-sum fee prior to the beginning of the Construction Documents Phase, upon the mutual consent of the District and the Architect.

C-2. Upon recommendation by the Project Manager and approval by the District, the Architect shall receive compensation for such Additional Services as are approved by the District. The District's written approval of any Additional Services shall contain a full description of the scope of such services, the maximum fee approved by the District, the signatures of the Architect and the appropriate representative of the District, and the date of execution. If such approval shall have been given, the Architect shall receive its regular rates of compensation for such Additional Services as addressed in Section L. However, such additional compensation shall not include any consultants' additional services. The regular rates are as follows:

Principal	_____
Project Manager	_____
Project Architect	_____
Architectural Designer	_____
Technical	_____
Construction Administrator	_____
Clerical	_____

C-3. Any additional services by consultants, if approved by the District in the same manner required above for Additional Services, shall be computed at a rate equivalent to the Architect's actual billed amounts for such services.

C-4. For Reimbursable Expenses, the Architect shall be reimbursed at the rates specified in Section K.

C-5. Within thirty (30) days after any payment by the District to the Architect under this Agreement, and as a condition precedent to any

further payments hereunder, the Architect shall provide the District with a certificate certifying that all fees due engineers and/or other consultants in connection with the Project have been paid.

C-6. The District's rights under this Agreement to approve the Schematic Design Studies, Design Development Documents, the Contract, and any other plans and specifications are for the purpose of allowing the District to ensure conformance with the educational design concept of the Project, unless specifically otherwise stated in writing by the District. Any approval by the District shall not constitute or imply approval of or attest to the accuracy, suitability, or completeness of the architectural design, drawings, dimensions, or details, proper selection of materials, or compliance with applicable codes or ordinances, which approval, attestation, and compliance is and shall remain the sole responsibility of the Architect.

D. ALLOCATED AMOUNT FOR CONSTRUCTION OF PROJECT

D-1. The total Allocated Amount is _____. If the Architect determines at any time during the development of the Project that the development of the Project will exceed the Allocated Amount, the Architect shall cease work immediately and notify the Project Manager and the District of that determination. The District's written approval (which approval may be given or withheld, in the District's sole and absolute discretion) of a revised Allocated Amount must be obtained before the Architect may proceed further on the Project.

E. ARCHITECT'S PROFESSIONAL SERVICES

E-1. "Basic Services," as referenced in Sections F, G, H, I, and J, shall include, but are not limited to, architectural and structural; mechanical and electrical engineering services; fire protection; special systems; coordination of design with furniture, fixtures, and equipment; and 12-month and 24-month postconstruction warranty/guaranty inspection. These Basic Services include, but will not necessarily be limited to, the following:

a. Preparing complete schematic design, design development, construction documents, and construction contract administration for the entire length of the Project until completion and acceptance of the Project by the District.

b. Submitting any documentation for code or agency approval as necessary under the Plan of Development for the Project.

c. Assisting in obtaining all necessary building permits, variances, use permits, special permits, and any other required approvals, in conformance with all city and state requirements (all permit fees to be paid directly by the District), and attending all meetings with local governmental agencies incidental to obtaining such approvals.

d. Preparing a document completion schedule, assisting in the development of a phasing schedule with the District and the Project Manager, and reviewing the construction schedule and informing the District of the progress of the Work; reviewing shop drawings and other required submittals; reviewing and recommending materials, equipment, and tests thereof; reviewing the Contractor's applications for payment; and issuing Certificates for Payment in approved amounts.

e. Conducting and/or attending meetings to discuss schematic, design development and working drawings; and attending and assisting the Project Manager in prebid conferences, preconstruction conferences, and weekly construction meetings with contractors as required by the District.

f. Working with the Project Manager to accomplish the District's goals and objectives in completing the Project.

g. Working with the District's consultants to coordinate and meet the District's goals and objectives.

h. Participating with the Project Manager in value engineering workshops for the projects that are the subject of the Contract.

i. Coordinating the design with all serving utility companies, to timely file all documents required for approval of serving utility companies and obtain all service agreements.

E-2. All Work performed under this Agreement shall be performed by or under the direct supervision of persons then licensed in the state of Arizona to perform such services. The name of each such licensed individual shall be listed on the title sheet of the Plans and Specifications. The Architect shall be responsible for the Work performed by and under the supervision of such persons and shall

ensure that the seal and signature of each person appears on the drawings prepared by each of them.

E-3. The Architect shall attend, when requested by the District or the Project Manager, meetings of the Governing Board for the purpose of discussing the design documents, cost estimates, schedule, or construction of the Project.

E-4. It is recognized and agreed by the parties hereto that all professional services provided by the Architect under this Agreement are for the sole benefit of the District and not for the benefit of any third party, and no party shall be deemed a third-party beneficiary of this Agreement.

E-5. The Architect shall neither design for nor, to the best of its knowledge, permit the use of any material that contains asbestos and lead paint in the construction of the Project.

E-6. All designs and specifications prepared by the Architect shall comply with the Americans with Disabilities Act, as determined by permitting agencies.

E-7. The Architect shall be held to the Highest Professional Standard for architects in fulfilling its requirements under this Agreement.

E-8. Approval by the District, wherever required by this Agreement or elsewhere, shall not relieve the Architect of responsibility for negligence, errors, or omissions in performance of its obligations under the terms of this Agreement.

E-9. The Architect shall maintain all required licenses and registrations throughout the term of this Agreement and shall be able to provide proof of such.

E-10. During the term of this Agreement, the Architect shall maintain adequate, competent, and qualified staff to meet the District's needs and to fully perform the services set forth in this Agreement. The Project Manager representing the firm as the primary daily contact individual overseeing the project will not be replaced without prior written approval by the District.

E-11. The Architect shall, at all times, be an equal-opportunity employer and shall not discriminate against any employee or applicant for employment on the basis of race, religion, sex, or ethnic origin.

E-12. Should the Architect provide defective, incomplete, unclear, or uncoordinated documents or fail to follow the requirements of the Arizona School District Procurement Code (A.A.C. R7-2-1001 *et seq.)* in preparing specifications for calls or invitations for bids and requests for proposals, all costs of responding to any protest or appeal or of any necessary rebidding will be borne by the Architect. Pursuant to A.A.C. R7-2-1001, no person preparing specifications shall receive any direct or indirect benefit from the utilization of such specifications.

E-13. The Architect will represent the District in dealings with other consultants and in obtaining governmental approvals, but will not be the sole or exclusive agent of the District in dealings.

E-14. The District reserves the right to approve any changes in personnel of the Architect assigned to the Project.

E-15. The District shall own all construction documents, blueprints, plans, drawings, and specifications prepared by the Architect in connection with this Agreement.

E-16. A.A.C. R7-2-1141 through R7-2-1195 of the Arizona School District Procurement Code is the exclusive means of adjudication of any disputes that may arise. Further, this exclusive means of adjudication is agreed upon under the free will of all parties and in consideration of the award of this Agreement.

E-17. The Architect shall not subcontract inspections.

E-18. The Architect's duties, responsibilities, and limitations on authority as a representative of the District before, during, and after completion of construction of the Project shall not be modified or extended without the written consent of the District.

E-19. The Architect agrees to further the interests of the District by furnishing the Architect's skill and judgment in cooperation with the services of the Project Manager and other professionals engaged by the District. The Architect shall perform its obligations under this Agreement in an expeditious and economical manner consistent with the interests of the District.

E-20. In addition to the above "Basic Services," which apply to all phases of the Project, the following "Basic Services," performed in the phases described in Sections F, G, H, I, and J below, shall be provided by the Architect under this Agreement.

F. BASIC SERVICES—SCHEMATIC DESIGN PHASE

F-1. In the Schematic Design Phase, the Architect shall:

a. Consult with the District and the Project Manager to obtain the District's full requirements for the Project (as defined by the District, in its discretion) and review the Architect's understanding of such requirements with the District and the Project Manager. The Basic Projected Architectural Schedule contains the schedule for completing the design and construction of the Project. The Architect shall immediately advise the District and the Project Manager of any facts of which it is, or becomes, aware that may result in any material changes in the Basic Projected Architectural Schedule.

b. Meet with the campus steering committee for the campus involved in the Project and review the campus budget and the campus master plan, including educational specifications and program.

c. Meet with all special groups designated by the District.

d. Develop and review with the District and the Project Manager alternative methods and approaches to the design and construction of the Project, and complete a list of the specialized services that may be required from other professionals. The Architect shall recommend the method the Architect judges to be best suited to the District's need and construction budget.

e. Within five (5) business days following completion of the review provided for in Section F, the Architect may reject the Project if, and only if, the Architect in good faith believes the Project can not reasonably be performed within the Allocated Amount. Such rejection shall terminate the Agreement without further obligation or penalty to either party. If the Architect does not reject the Project within that time, the Architect shall be deemed to have accepted the Project, the Basic Projected Architectural Schedule, and the Allocated Amount and to have agreed to design the Project until it can be awarded within the Allocated Amount as provided in Section O.

f. Meet with special consultants retained by the District, and develop an understanding of the services those consultants will provide in connection with the Project so that the Design Development Documents and construction documents are compatible with the end product of those consultants.

g. Coordinate Work with that of any environmental consultant retained by the District for Work that relates to or impacts any part of the Project and meet with the District, the Project Manager and the environmental consultant to determine scheduling and sequencing of environmental Work.

h. Prepare and submit, for approval, by the District and the Project Manager, schematic design studies and sketches, with a general description of the Project. The Architect shall be responsible for ensuring that a Schematic Design Study and other documents are provided to the District for approval. Unless otherwise ordered by the District, the Architect shall prepare such documents and drawings, which shall include individual floor plans, appropriate elevations and sections, mechanical concepts, a list of materials to be used, and other items relevant to the illustration of the scale in relationship to the Project Components.

i. Verify the Project Manager's Statement of Probable Construction Costs.

j. Consult with the District and the Project Manager, and such other persons as the District may designate, for the purpose of ascertaining the physical requirements of the Project that may be necessary to fulfill the District's educational objectives.

k. Verify and investigate existing conditions or facilities as required by the Project, with the exception of environmental assessment.

l. Review preliminary and final schematic design and verify the Project Manager's estimated Construction Cost.

G. BASIC SERVICES—DESIGN DEVELOPMENT PHASE

G-1. In the Design Development Phase, the Architect shall:

a. Upon approval of schematic drawings by the District, prepare Design Development Documents for the District's approval, modification, or rejection. Design Development Documents consist of drawings, specifications, and other documents to fix and describe the size and character of the entire Project with respect to the architectural, structural, mechanical, and electrical systems of each aspect of the Project, material, and such other essentials as may be appropriate. The Design Development documents will graphically show the appearance of the Project by means of plans, elevations, sections, and specifications as needed

to adequately depict the Project. These will show and describe finished architectural treatments and materials and will depict the elements in the Project with sizes, numbers of square feet, and heights. Schematic structural information will be included. The Design Development Documents shall describe the size and character of the entire Project relative to structural, mechanical, electrical, and architectural systems of each and every aspect of the Project and shall include drawings, specifications, and other relevant documents that address the above, and materials, including other essentials, as are necessary to the Project. In preparing the Design Development Documents, the Architect shall consider the available materials, labor, and funds, as well as user safety, necessary maintenance, and energy conservation measures.

b. These Design Development documents shall also:

1. Indicate all existing topographic features and improvements and reflect any revisions to be made to such topographic features and improvements pursuant to the Project. The drawings shall also indicate the direction of flow and point of discharge of any required drainage structures.

2. Indicate developed floor plans, proposed finished floor elevations, floor and roof framing, typical wall section, exterior elevations with proposed floor-to-floor heights, and details of any unusual features of construction.

3. Contain information necessary to establish space requirements and functional arrangements.

4. Contain the functional layout of mechanical, electrical, and electronic features, special equipment, plumbing, and heating, and include, where applicable, the following:

(a) Location of evaporative coolers and air conditioning units.

(b) General scale layout of equipment, showing space requirements and auxiliary equipment proposed.

(c) Location and approximate size of special equipment to be installed such as compressors, generators, transformers, electronic equipment racks, consoles, panels, distributing frames, elevators, hoists, and cranes.

(d) Location, dimensions, sections, areas, and capacities applicable to features such as parking areas, access roads, driveways, and walks.

(e) Location and size of existing and proposed storm and sanitary sewers, water mains, gas mains, and electrical services as needed for the construction of the Project, as well as elevations of gravity lines and the location of proposed building connections that will be provided by others.

(f) Conceptual description for each electronic or instrumentation system, which shall be shown for all system functions.

(g) Written evaluation of the solar energy features required by §34-452 for projects designed to contain over 6,000 square feet of interior floor space.

G-2. With the District and the Project Manager, participate in review of value engineering materials, building systems, mechanical systems, special systems, and electrical systems.

G-3. Review, with the Project Manager and the District, the District's standards, including, without limitation, the District's Facility Guidelines and Standards.

G-4. Based upon the drawing and specifications developed for this phase of the Project, verify the Project Manager's Statement of Probable Construction Costs submitted for the District's approval, modification, or rejection. The updated Statement of Probable Construction Costs must reflect the site conditions, building layout, and construction materials necessary for this Project in such detail as to enable the District to ascertain the projected costs for each major building system of the Project.

G-5. Submit to the District documents required to be prepared by the Architect during the Design Development Phase, together with any other material or documents necessary for demonstrating the design of the Project.

G-6. Submit any documentation for code or agency approval as necessary.

G-7. Develop a phasing and sequencing plan with the District and the Project Manager, and incorporate it in the architectural documents.

Any Work performed by any consultant retained by the District for any aspect of the Project should be included in this plan to ensure that the end product of this Work is compatible with all other facets of the Project and meets the requirements of the District.

H. BASIC SERVICES—CONSTRUCTION DOCUMENTS PHASE

H-1. In the Construction Documents Phase, the Architect shall:

a. Prepare Working Drawings and Specifications, allowing for phase construction and occupancy, multiple bid packages, and detailing the entire Project construction requirements for the District's approval, modification, or rejection. The Working Drawings and Specifications shall be prepared from the approved Design Development Documents. Specifications will list the types of materials, services, or construction items the Contractor may use in the construction of the Project. The factors involved in determining the requirements of construction shall include coordination of the architectural, structural, mechanical, and electrical phases of the Project, other consultants, and the necessary bidding information, including the Agreement between the District and the Contractor.

b. Prepare all documents required for the construction of the Project, including, but not limited to, bidding forms for the District's and the Project Manager's approval, modification, or rejection.

c. Verify the Statement of Probable Construction Costs, prepared by the Project Manager.

d. Estimate the time for construction of the Project from the Basic Projected Architectural Schedule. In making this estimate, the Architect shall use its Best Professional Judgment to evaluate all aspects of the Project, including Project locations, site conditions, and types of materials and equipment that are contemplated for incorporation into the Project. The Architect shall advise the District and the Project Manager of any changes to the Basic Projected Architectural Schedule resulting from changes in requirements, general conditions, or any other factors. In the specifications the Architect shall provide that the Contractor is to develop and submit a material delivery schedule as part of the Project Schedule.

e. As the District's agent for the sole purpose of doing so, file all governmental applications, requests, and submittals required for approval relative to the Project. The Architect's filing responsibilities include, but are not limited to, those submitted to the State Fire Marshal.

f. Assist in obtaining all building permits, variances, use permits, special permits for permanent improvement, and any other required approvals.

g. Incorporate in the Design Solutions for the Project all on-site utility connections and facilities that are required to supply the Project with all necessary utilities and means of ingress and egress.

h. Use the following special rules in preparing specifications unless the District gives its written permission to the Architect to deviate from them:

1. All specifications prepared by the Architect shall encourage competition and shall not be unduly restrictive. The specifications shall describe the District's requirements in a way that will not unreasonably exclude a material, service, or construction item.

2. The Architect shall not use bidding, contracting, or purchasing specifications proprietary to one (1) supplier, distributor, or manufacturer unless the specifications include all of the following:

(a) A statement of the reason or reasons why no other specification is practicable.

(b) A description of the essential characteristics of the specified product.

(c) A statement indicating the intent to consider an alternative product that has the desired essential characteristics if such an alternative product is identified.

(d) Approval by the District.

3. The Architect shall prepare all specifications in accordance with A.A.C. R7-2-1105, and with all other statutes, rules,

regulations, or policies that govern procurement by Arizona school districts in general, and the District in particular.

4. The Architect shall bear any cost or expense arising from the Architect's improper use of proprietary specifications that are not otherwise approved by the District.

H-2. Design the Working Drawings and Specifications according to the State Fire Code adopted by the State Fire Marshal, as well as any applicable building, plumbing, electrical, fire prevention, and mechanical codes. If any of such codes are revised during the term of this Agreement, the Architect shall, without additional charge to the District, revise the Working Drawings and Specifications to conform to those revisions if the building system or component affected by such revision has not been designed and approved by the permitting agency or has not been actually constructed.

H-3. If there is a protest by any bidder or offeror relating to the Specifications, fully cooperate with the District in responding to such a protest and all attendant proceedings. The Architect agrees to abide by any decision of the District if such a protest or an appeal of a decision pertaining to such protest is sustained in whole or in part.

I. BASIC SERVICES—BIDDING PHASE

I-1. In the Bidding Phase, the Architect shall:

a. After the District accepts the construction documents and the latest Statement of Probable Construction Costs, assemble the construction documents for the Architect's distribution to potential bidders. The Architect shall undertake this responsibility based upon the District's acceptance of the Working Drawings and Specifications and the latest Statement of Probable Construction costs. Such acceptance shall not constitute approval of the adequacy of those documents and shall not relieve the Architect of the responsibility for design deficiencies, errors, or omissions. The Architect shall prepare and distribute any addenda to the construction documents, subject to prior approval by the District and the Project Manager.

b. Consult with such agents and consultants of the District as the District shall direct, and assist in the preparation of the Notice Inviting Sealed Bids, Instructions to Bidders, Proposal, List of Subcontractors and Material Vendors, Performance Bond, Payment Bond, Notice of Award, Receipt of Assignment and

Contract, and General Conditions, which shall be submitted to the District and the Project Manager for approval prior to distribution of these documents for bidding.

c. Prepare and submit to the District and the Project Manager a Prebid Construction Schedule, which shall be in form and sufficient detail, appropriate to the size, complexity, and scope of the Project, to indicate the completion of major phases.

d. With the District and the Project Manager, hold a prebid conference with prospective bidders. The Architect will assist the Project Manager in preparing the agenda for the prebid conference.

e. Review and recommend for approval by the District requests for material and vendor substitution.

f. At the bid opening, assist the Project Manager in receipt and recordation of the bids received. The Architect shall prepare and certify to the District the list of bidders and the amount of each bid. The Architect shall review the bids for price and the qualifications of the lowest responsive bidders. The Architect shall recommend to the District the lowest responsible and responsive bidders. The District shall make the award of the Contract. Further, it is the Architect's responsibility to ensure that all relevant and specific information concerning the Project is included in the Contract.

g. Revise the scope or quality of the Project, and revise drawings and specifications, until the District, at no additional cost to the District, receives a satisfactory construction bid.

h. Submit the working Drawings and Specifications to the District for approval on or before the specified date.

i. Be fully aware of and familiar with all applicable laws, rules, regulations, and policy procedures that govern procurement practices by school districts in Arizona. The Architect will be responsible for any and all costs, expenses, and damages incurred by the District that result from the Architect's failure to follow such procurement practices.

j. Review with the Project Manager any plan review comments of any city or county and make any required changes or adjustments.

k. Review and present Construction Documents with each applicable campus steering committee.

J. BASIC SERVICES—CONSTRUCTION ADMINISTRATION PHASE

J-1. Once the Contract is awarded, the Construction Administration Phase of the Project will begin. The Construction Administration Phase will terminate when Final Completion has been achieved. The duty of the Architect to perform construction phase services is neither satisfied nor affected in any respect by the presence on site of any other agent, consultant, or employee of the District.

J-2. In the Construction Administration Phase, the Architect shall:

a. Upon authorization by the Project Manager and the District, notify the Contractor, in writing, on a form prepared by the Project Manager, to commence work on the Project. The date of commencement contained in the notice shall be the official starting date upon which the completion time shall be based.

b. Attend and participate in preconstruction, weekly construction, and progress meetings that include the District, the Project Manager, and the Contractor to discuss such matters as procedures, progress, problems, and scheduling.

c. Request from the Contractor a Project Schedule, as required by the Contract, that shall include identification of all material critical to scheduling of the Project for which long lead time in procurement is anticipated and projected dates for submittal, order, and delivery of such material. If the Contractor fails to provide a Project Schedule containing a material delivery schedule within ten days of the Architect's request, the Architect shall report such failure immediately to the District and the Project Manager. The Architect shall review the Project Schedule, using the Architect's Best Professional Judgment as an Architect, and shall notify the District, the Project Manager, and the Contractor promptly of any anticipated delays in construction or material deliveries indicated by the Project Schedule submitted by the Contractor or any other unrealistic situations disclosed therein that may affect timely completion of the Project.

d. Perform the duties expressly required in the Contract and those reasonable and necessary to carry out said express duties. The Contract is hereby incorporated in this Agreement to the extent

that it sets forth and defines duties and obligations of the Architect in connection with the Project, and the Architect acknowledges and agrees that such duties contained in the Contract constitute a part of the Basic Services. It is recognized by the Architect and the District that the provisions of the Contract may change from time to time. The parties agree to be bound by the Contract as it is in existence at the time the Contract is awarded, as long as the Architect is given the opportunity to review and approve any changes in the Contract before it is executed. Once the Contract is fully executed by the District and the Contractor, the extent of the Architect's duties and responsibilities and the limitations of the Architect's authority as assigned thereunder shall not be modified without the Architect's written consent and that of the District. In case of any conflict between the provisions of this Agreement and the provisions of the Contract, the provisions of this Agreement shall control as between the District and the Architect.

e. Assist the Project Manager in conducting a preconstruction conference with the Contractor.

f. As the District's agent for the sole purpose of doing so, advise and consult with the District and the Project Manager and enforce the District's rights under the Contract during the Construction Administration Phase. The District and the Project Manager shall have the right, but not the obligation, to issue instructions to the Contractor through the Architect. The Architect shall have authority to act on behalf of the District to the extent provided in this Agreement. The Architect shall act as a liaison between the District and the Contractor to the extent requested and authorized from time to time by the District and the Project Manager.

g. Review all Work, whether performed, anticipated, or in progress, relative to the Project, and Inspect all Work on-site.

h. Make visits to the site as required and/or requested by the Project Manager and the District to determine if the progress and quality of the Work are in accordance with the Contract. The on-site visits by the Architect shall be supplemented by members of the appropriate architectural or engineering discipline and specialty according to the status of the Work and may vary with the progress of the Work unless otherwise specified in this Agreement. The Architect shall immediately report any and all

defects or deficiencies in the Work or other variations from the requirements of the Contract to the Contractor and to the District and the Project Manager in writing.

i. Not have control over or charge of construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work.

j. Attend job progress meetings, which shall be held on a periodic basis appropriate to the size, complexity, and scope of the Project, at which time the Contractor and the Architect shall discuss and resolve such matters as procedures, job progress, construction problems, scheduling, or other matters relating to the timely and successful completion of the Project in accordance with the Contract requirements. Additional special job-site meetings, when deemed necessary by the Architect, shall be held as scheduled by the Architect.

k. Review and recommend for approval by the District and the Project Manager requests for material and vendor substitution.

l. Provide the District and the Project Manager with written Field Inspection Reports giving detailed information covering the same categories covered in the Project Schedule, which shall be prepared by the Architect each week while construction is in progress and transmitted to the District and the Project Manager within twenty-four (24) hours of preparation. Such reports shall constitute statements to the District by the Architect, that the Architect has inspected the Work, and that to the best of the Architect's knowledge, information, and belief, said Work has been performed in a workmanlike manner in accordance with the Drawings and Specifications, except for the items of the Work specifically listed on the report as not having been performed in said manner.

m. Issue the Certificate of Payment for compensation for the Contractor's Work and forward it to the Project Manager and the District within three (3) working days of issuance. The Architect shall base the decision regarding the Contractor's compensation on the Contractor's Application for Payment and on the Architect's verification of the Contractor's representations. The Architect's issuance of the Certificate of Payment shall be based on the Architect's verification of the Contractor's representations. The Architect's issuance of the Certificate of Payment shall be

based on the Architect's professional decision to certify that (1) the Contractor's representation regarding the status and progress of the Project is precise and accurate, (2) the quality of the Contractor's Work is consistent and complies with the Contract, and (3) the Contractor's Application for Payment is precise and just and, therefore, the Contractor should be compensated in the amount certified. The Architect's issuance of the Certificate of Payment may be based on its determination that the Contract has been substantially complied with but that minor completion and remedial Work prior to completion shall be performed to the Architect's precise requirements. The Architect shall not approve an Application for Payment until the Architect has verified that such Application for Payment is accompanied by lien waivers from all Subcontractors for all Work performed on the Project, which Work was the subject of any previous Applications for Payment submitted by the Contractor. When the Contractor has made proper application, the Architect shall issue a Certificate of Payment to the District (accompanied by all applicable original lien waivers) within seven (7) days, or state in writing its reasons for withholding such Certificate.

n. Reject the Contractor's Application for Payment and withhold its Certificate of Payment if the Architect determines that the Contract has not been complied with or cannot be remedied as referenced in Section J above. The Architect shall immediately notify the District and the Project Manager in writing upon the Architect's determination to reject the Contractor's Application for Payment.

o. Rescind approval of the Application for Payment after the Certificate of Payment has been issued if the Architect subsequently discovers evidence or subsequently determines that the Work is not in compliance with the Contract until such defects or deficiencies are remedied. The Architect shall immediately notify the District and the Project Manager in writing upon the Architect's determination to rescind approval of the Contractor's Application for Payment.

p. If the Contract or the specifications or the laws, ordinances, or regulations of any public authority require any Work to be specially tested or approved, or if the Architect deems such testing or approval necessary, make inspections of the Work and material after notice to the Contractor of its readiness to Inspect. Inspection by the Architect shall be made promptly. The

Architect, in its discretion or at the District's or the Project Manager's direction, shall require and perform special inspections or testing of any and all Work performed, anticipated, or in progress if it is necessary or advisable to achieve the intent of the Contract. As a part of the Basic Services, the Architect and its consultants shall make all inspections of the Project required by the District or any governmental agencies or entities, excluding "Special Inspections" mandated by local authority.

q. If the Contractor fails to comply with the orders of the Architect, the Architect shall immediately notify the District and the Project Manager. The Architect's failure to provide such notice shall constitute a continuing warranty and representation to the District that the Project is being constructed in strict accordance with the provisions of the Contract.

r. Analyze and review all shop drawings, product data, requests for information, samples, testing materials, and other of the Contractor's submissions for conformance with the Design Concept of the Project and with the requirement of the Contract. The Architect shall approve, reject, or require a revision of such documents pursuant to the Architect's consultation with the District. Such general submissions shall be approved only if they are in conformance with the design concept of the project and in compliance with the intent of the Contract documents. Submissions of the Contractor shall be acted on and returned to the Contractor within ten working days of receipt or within the time limit agreed upon between (1) the Architect and the Contractor, or, if such agreement cannot be reached, (2) between the Architect and the District. If review and approval are not timely, the Architect shall notify the Contractor, the Project Manager, and the District in writing stating the reasons for the delay. Resubmittals shall be acted on and returned to the Contractor within five (5) working days. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the Contractor, all of which remain the responsibility of the Contractor to the extent required by the Contract documents.

s. The Architect shall furnish to the Contractor additional instructions in writing, by means of drawings, or as otherwise necessary for the proper execution of the Work. All such

instructions or drawings shall be consistent with the requirements of the Contract.

t. Consult with the Project Manager and the District if the Contractor requests interpretations of the meaning and intent of the drawings and specifications, and assist in the resolution of questions that may arise.

u. Except in an emergency endangering life or property, prepare and process no extra Work or change in the Work unless expressly authorized by the District in accordance with the provisions of the Contract; provided, however, that the Architect may make minor changes in the Work not involving extra cost, delay, or claim of any kind against the District or the Contractor or both, and not inconsistent with the Contract. Each such minor change shall be ordered by the issuance of a Field Order to the Contractor, a copy of which must be delivered to the District and the Project Manager within twenty-four (24) hours of issuance. All additional costs for Work approved by the Architect in a manner not specified in the Agreement or the Contract shall be the sole responsibility of the Architect.

v. Obtain from the District the name of the person authorized on behalf of the District to approve extra Work or changes in the Project, and shall deal solely with that person.

w. After consultation with and approval by the District and the Project Manager, issue the Certificate of Substantial Completion and final completion, receive written guarantees, waiver of liens, and related documents assembled by the Contractor, and issue a final Certificate for Payment consistent with the conditions for issuance of previous Certificates for Payment set forth above. Such final Certificate for Payment shall not be issued until the Architect shall have verified receipt of original properly executed lien waivers for all Work performed with respect to the Project and release of the surety approving final payment. The final Certificate of Payment shall be transmitted to the District and the Project Manager accompanied by originals of all such lien waivers for all Work performed with respect to the Project and release of the surety approving final payment. The final Certificate of Payment shall be transmitted to the District and the Project Manager accompanied by originals of all such lien waivers and surety approvals.

x. Three (3) weeks before the expiration of the guarantee period, as determined by the date of the Final Certificate for Payment or, if later, the Final Completion Date, in the company of the Contractor, the Project Manager, and the District, make an inspection of the Project to determine that all defects in material and workmanship that occurred during the guarantee period have been satisfactorily corrected.

y. With the Project Manager and the District's maintenance personnel, observe the Contractor's checkout of utilities, operational systems, and equipment for readiness and initial startup and testing.

z. Upon completion of construction, cause to be delivered to the District a complete set of "record" drawings, which shall include all architectural, structural, mechanical, and electrical changes. The Architect shall prepare the "record" drawings on a CAD system compatible with the District's CAD system, and provide an electronic file copy of documents for reproduction by the District.

aa. Assist the Project Manager in preparing Change Orders relative to any changes in the Construction Project. All Change Orders shall be timely provided to the District for the District's approval, rejection, or modification consistent with the Contract. Each Change Order shall contain narrative and explicative language to properly inform the District of the necessity of the change. Such explanation shall include all supporting documentation, drawings, data, etc., deemed necessary by the District prior to the District's decision on the change. No Change Order shall be effective without express written approval by the District unless otherwise specifically set forth in this Agreement.

bb. If any condition or event occurs justifying (1) stoppage of Work that cannot be resolved or (2) termination of the Contract for cause, the Architect shall advise the District and the Project Manager and, at the District's direction, shall deliver notice to the Contractor setting forth the alleged condition or event and demanding compliance with the Contract. Unless, within forty-eight (48) hours after receipt of such notice, such condition or event has been corrected or satisfactory arrangements for correction have been made and diligently pursued, the Architect shall advise the District and the Project Manager in writing of the Contractor's default and shall recommend either the continuation of the stoppage or termination of the Contract with the

Contractor. At the District's direction the Architect shall notify the Contractor and the surety of the default.

cc. Determine when the Work is ready for final inspection and inform the Project Manager and the District, and assist the Project Manager in conducting final inspections.

K. REIMBURSABLE EXPENSES

K-1. For approved Reimbursable Expenses described herein, the District shall pay the actual amount expended by the Architect or the Architect's consultants. Approved Reimbursable Expenses shall include only:

a. Long-distance communications and expense of postage, not to exceed an aggregate of $500.00 total.

b. Reproduction on in-house and consultant progress prints at _____: provided, however, that the cost of printing five (5) full sets of the Drawings and Specifications shall be considered as a portion of the Basic Services and shall not be Reimbursable Expenses to be paid by the District to the Architect.

c. Perspective renderings, photographs, or models, when requested in writing by the District for the District's use beyond the drawings included in Basic Services.

d. Civil engineering, geotechnical investigations, and other special inspections required by code authorities.

K-2. All requests for payment of Reimbursable Expenses shall be accompanied by invoices evidencing the Reimbursable Expense to be reimbursed to the Architect by the District.

K-3. All costs of supplies, printing, and other expenses not expressly identified in this Article 11 are included in the fee for Basic Services.

L. ADDITIONAL SERVICES

L-1. To the extent applicable, the following Additional Services shall be paid by the District only if previously approved by the District, in writing:

a. Professional services or litigation expenses occasioned by the need to replace or repair Work damaged by fire, vandalism, or Act of God, adjudication, and litigation support, provided that such

damage was not the fault of or occasioned by the neglect of the Architect or a result of the Architect's failure to perform in accordance with this Agreement.

L-2. No corrections, additions, or modifications to the Work, Design Development Documents, or Working Drawings and Specifications, or otherwise occasioned by or arising out of any oversight, negligence, mistake, or lack of technical or professional expertise by the Architect or any of its agents or consultants shall be considered a part of the Basic Services.

M. THE DISTRICT'S RESPONSIBILITIES

M-1. The District shall provide the Architect with necessary information regarding the District's expectations and requirements, and the District's directives regarding completion of the Project.

M-2. The District's Governing Board shall be the final arbiter and decision maker of any and all decisions relative to completion of the Project. The District, either directly by the Governing Board or through its Administrative Staff, shall designate an agent or representative to act on its behalf. The District, or its designated representative, shall retain all authority and responsibility to make decisions pertaining to submittals made by the Architect and the Contractor.

M-3. Through its designated representative, its agent, or the Architect, the District shall secure a Certified Land Survey of the site. The Certified Land Survey shall include grades and lines of streets, alleys, pavement, adjoining property, easements, encroachments, zoning, deed restrictions, rights-of-way, boundaries, and contours of the site; restrictions, locations, dimensions, and complete data of existing buildings, other improvements, and trees; and full information concerning available service and utility lines. The above information shall not be limited to public rights, but shall include private easements and rights.

M-4. The District, in its discretion, shall furnish all legal, accounting, and insurance counseling services relative to the successful completion of the Project. The District reserves the right to refrain from providing the above if the necessity of securing the above is due to the misfeasance, nonfeasance, malfeasance, or other error of the Architect.

M-5. If the District specifically observes or discovers any fault or defect in the Project that creates a nonconformance with the Contract, the

District shall give prompt notice thereof to the Architect, but nothing herein shall be construed to create an obligation of inspection on the part of the District.

M-6. The District shall pay any fees required by any county, city, or town in which any building constituting any aspect of the Project will be located, in conjunction with any applicable building, development services, plumbing, electrical, fire prevention, and mechanical codes adopted by such county or city or town.

M-7. The District, in its absolute discretion, shall have the right to approve or disapprove all consultants utilized by the Architect in performing the Basic Services and any Additional Services requested.

N. PROJECT MANAGER

N-1. The Project Manager will act as the agent of the District with regard to the Project. The Architect agrees to fully cooperate with the Project Manager for purposes of this Agreement. If the District and the Project Manager should disagree as to any conflict between provisions of this Agreement and the provisions of the Contract, the provisions of this Agreement shall control as between the District and the Architect.

O. CONSTRUCTION COST

O-1. The term "Construction Cost," if used in this Agreement as the basis for determining the Architect's fee on all Work designed or specified by the Architect and approved for Construction by the District, including all additive alternates approved by the District, shall be determined and adjusted as follows:

a. ***For Work for which bids are not received.*** A detailed Cost Estimate acceptable to the District, in its sole discretion, provided it is within the amount allocated by the District for construction specified above. If the Cost Estimate is not within that amount, then such Allocated Amount shall be used.

b. ***For Work for which bids are received but construction has not been completed.*** The lowest bona fide bid received from a qualified bidder for any or all such Work, provided it is within the Allocated Amount. As bids are received, the actual bids shall be compared to the estimated cost pursuant to the paragraph immediately preceding , and adjustments shall be made in the fee paid to the Architect for Basic Services in order that such fee for Basic Services shall be based upon the bids received.

c. Upon completion of construction the Construction Cost shall be the amount of the successful construction bid, after adding or subtracting, as the case may be, the amount of any Change Order or Orders approved in writing by the District. As construction is completed, the actual cost of construction shall be compared to the estimated construction costs calculated pursuant to the two paragraphs immediately preceding, and adjustments shall be made in the fee paid to the Architect for Basic Services in order that such fee for Basic Services shall be based upon the actual Construction Cost upon completion of construction. However, no increase in Construction Cost for purposes of fee calculation will be allowed as a result of Change Order increases to the Construction Cost due to actions or inactions of the Architect.

O-2. Construction Costs do not include the cost of land, rights-of-way, or other costs specifically made the responsibility of the District under the terms of this Agreement.

O-3. The Architect, in cooperation with the Project Manager and subject to the District's approval, shall determine what materials, equipment, component systems, and types of construction are to be included in the Contract, and shall make reasonable adjustment in the scope of the Project to bring the cost of such materials, equipment, component systems, and/or types of construction within the Allocated Amount. Any reduction in quality of craftsmanship resulting from any adjustment so made shall be communicated in writing to the District and the Project Manager, describing the adjustments made and the resulting reduction in quality or craftsmanship. The Architect may also include in the Contract an alternate or alternates for the purpose of adjusting the Construction Cost to the Allocated Amount, upon first obtaining written authorization to do so from the District and the Project Manager.

O-4. If the lowest bona fide bid or the Statement of Probable Construction Costs exceeds the Allocated Amount, the District may:

a. Give written approval of an increase in the Allocated Amount; *or*

b. Authorize rebidding the Project within a reasonable time; *or*

c. Revise the Project to reduce the Construction Costs; *or*

d. Abandon the Project, with no further obligation to the Architect under this Agreement.

O-5. The Architect, without additional charge, shall modify the Drawings and Specifications as necessary to bring the Construction Costs within the Allocated Amount. Provision of this service and rebidding the Project shall be the limit of the Architect's responsibility in this regard unless the rebidding, in the District's discretion, is the result of the Architect's misfeasance, nonfeasance, malfeasance, or other error. Absent the District's decision that the Architect erred, the Architect shall be entitled to its fee based on the rebid or rebids in accordance with this Agreement.

O-6. The Architect's verification of the Statements of Probable Construction Costs to the District shall constitute the Architect's representations to the District consistent with the Standard Professional Architectural Practice within the Arizona Construction Industry. It is the Architect's responsibility to remain aware of current Arizona industry trends and costs relative to market conditions and the cost of labor, material, and equipment.

P. DIRECT PERSONNEL EXPENSES

P-1. The persons employed or retained by the Architect to be considered in determining Direct Personnel Expenses include architects, engineers, designers, job captains, draftsmen, specification writers, and typists, in consultation research and design, in producing Drawings, Specifications, and other documents pertaining to the Project, and in services during construction at the site.

P-2. Direct Personnel Expenses include cost of salaries and of mandatory and customary benefits such as statutory employee benefits, insurance, sick leave, holidays and vacations, pensions, and similar benefits.

P-3. All Direct Personnel Expenses shall be borne by the Architect, and the District shall have no responsibility therefor whatsoever.

Q. PAYMENT TO ARCHITECT

Q-1. Subject to the other provisions of this Agreement and the remedies afforded by the Arizona Board of Education rules governing contract controversies—A.A.C. R7-2-1155, *et seq.*, (the "Procurement Code") —payments to the Architect shall be made as follows:

a. Payment for the Architect's Basic Services shall be made by the District monthly in proportion to the percentage of Work performed in the applicable phase multiplied by the percentage of

the total fee for Basic Services set forth in Section C (adjusted according to Construction Costs as set forth in Section O).

Q-2. If a satisfactory bid is not received for construction of the Project (in accordance with the accepted Plans and Specifications) then, at no extra cost to the District, the Architect and the District shall, if the District desires, revise the scope of the Project as necessary to obtain a satisfactory proposal.

Q-3. If the Project is abandoned or suspended, in whole or in part, for a period of more than six (6) calendar months, the Architect shall be paid the amount provided for in this Agreement for service performed before receipt of written notice of such suspension or abandonment, together with Reimbursable Expenses then due that have been previously approved by the District; but in no event shall said compensation exceed the limits established by Title 34 of the Arizona Revised Statutes. Said time period shall begin to run upon the District's actual discovery of such abandonment or suspension in whole or in part. Further, the Architect's compensation shall, in the District's discretion, not be paid or may be decreased if the District, in its discretion, determines that such abandonment or suspension is due, in whole or in part, to the Architect or the Architect's agents.

Q-4. The Architect shall provide a written Statement of Services Rendered to the District in order to receive payments for Reimbursable Expenses and approved Additional Services. Such payments by the District shall be made on a monthly basis, as long as the Architect submits timely Requests for Payment.

Q-5. The Architect's compensation shall not be reduced, in whole or in part, based on any penalty, retainage, or sum withheld from payments due the Contractors. However, deductions, in whole or in part, may be made if the retainage from the Contractor is due, in the District's discretion, to the Architect misfeasance, nonfeasance, malfeasance, or other error.

Q-6. The Architect's compensation may be reduced, in whole or in part, if the District determines, in its discretion, that increase in the cost of construction is caused, in whole or in part, by an act or omission of the Architect or its agents (including consultants) that does not meet the Highest Professional Standard or is in breach of this Agreement.

Q-7. The District shall not be obligated to make final payment of the Architect's fee until the District has received a certificate from the

Architect that all fees due engineers and other consultants have been paid.

Q-8. Payment of any sums to the Architect shall not preclude the District from making a claim for adjustment of any item or service found not to have been in accordance with the terms of this Agreement.

Q-9. In the event of any dispute between the Architect and the District over the exercise of the District's discretion as set forth above, the Architect shall not be precluded from the remedies set forth in the Procurement Code.

R. INSURANCE

R-1. Without limiting any liabilities or any other obligations of the Architect, the Architect shall obtain and maintain errors-and-omissions liability insurance providing coverage for the Architect's negligence, errors, and omissions, if any, in its performance of this Agreement in an amount not less than $1,000,000.00 for each occurrence. The certificate of insurance furnished to the District pursuant to Section R shall require that the District be notified of any cancellation or reduction in coverage that occurs within five (5) years of the date of issuance of the certificate.

R-2. To cover its employees engaged in the performance of the Architect's services, the Architect shall maintain and at all times be able to provide proof of worker's compensation insurance and employer's liability insurance with coverage meeting or exceeding requirements imposed by federal and state statutes.

R-3. The Architect shall maintain and at all times be able to provide proof of comprehensive commercial general liability insurance with a minimum combined single limit of $1,000,000.00 for each occurrence, a $2,000,000.00 general aggregate limit, and a $2,000,000.00 products and completed-operations aggregate limit. The policy shall include coverage for bodily injury, broad-form property damage (including completed operations), personal injury, blanket contractual, products, and completed operations. The policy shall provide that coverage shall extend for one (1) year beyond substantial completion of the work. The policy shall also contain a severability-of-interests provision.

R-4. The Architect shall obtain and maintain comprehensive automobile liability insurance covering the Architect's owned, hired, and non-owned vehicles assigned to or used in performance of the Architect's

services, with a combined single limit for bodily injury and property damage of not less than $1,000,000.00 for each occurrence.

R-5. The policies required for comprehensive commercial general liability insurance and commercial automobile liability insurance shall include as additional insureds the District and its agents, officers, and employees and shall specify that the insurance afforded by the Architect is primary insurance and that any insurance carried by the District is excess, except as provided by state law, and not contributory to that provided by the Architect.

R-6. Within ten (10) days of the day the Architect executes this Agreement, the Architect shall provide the District a certificate of insurance, from a carrier acceptable to the District, that identifies this Agreement and provides that required coverage will not be canceled, terminated, or reduced in limit or restricted in scope without at least thirty (30) days' prior written notice to the District. The Architect shall promptly renew insurance coverage and shall give the District thirty (30) days' notice in the event that the Architect cannot obtain renewal. The Architect's failure to obtain or maintain required insurance shall constitute a material breach of contract upon which the District may immediately terminate this Agreement or, at the District's discretion, procure or renew such insurance and pay any and all premiums in connection therewith. The District may offset all monies so paid against any monies due the Architect.

R-7. The District shall have the right to request, and receive within ten (10) working days from receipt of request, certified copies of any or all of the above policies and endorsements. If a policy has not yet been issued, the District will accept a copy of a specimen contract and the binder with endorsements as proof of coverage. The Architect shall thereafter provide to the District within ten (10) days of its issuance a certified copy of the policy.

S. ARCHITECT'S ACCOUNTING RECORDS

S-1. The District, or its duly authorized representative or agent, shall be entitled to review the Architect's direct personnel and consultant expense records pertaining to the Project at any reasonable time. Said records shall be kept on a generally recognized accounting basis.

T. TERMINATION OF AGREEMENT

T-1. Nonperformance of this Agreement will be cause for the District's cancellation of this Agreement. This provision shall not be construed to prevent the nondefaulting party from recovering damages

occasioned by said default or pursuing any other remedy available to it. The District may terminate this Contract, without cause or further obligation, at any time, as long as written notice is provided to the Architect.

T-2. This Agreement will be subject to cancellation pursuant to A.R.S. §38-511.

T-3. Every payment obligation of the District by this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of the Architect's services, this Agreement may be terminated by the District at the end of the period for which funds are available. The District shall notify the Architect at the earliest possible time if the Architect's services will or may be affected by a shortage of funds. No liability shall accrue to the District if this provision is exercised, and the District shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

U. OWNERSHIP OF DOCUMENTS

U-1. The District and the Architect agree that all notes, designs, drawings, specifications, and other technical data produced in the performance of this Agreement shall be the property of the District but shall remain in the physical possession of and control by the Architect. The District and the Architect further agree that neither party shall make any use of said work product without the written permission of the other party.

U-2. The Architect agrees that the District shall have access, at all reasonable times, to Inspect and make copies of all notes, designs, drawings, specifications, or other technical data pertaining to the Work to be performed under this Agreement.

U-3. The Architect agrees that the District may retain maintenance manuals, as-built drawings, copies of shop drawings, and other technical data as provided in the Contract.

V. SUCCESSORS AND ASSIGNS

V-1. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the heirs, personal representatives, successors in interest, assigns, and legal representatives of each party with respect to all provisions of this Agreement. No party shall assign,

sublet, transfer, or convey its interests in this Agreement without the prior written consent of the other party.

V-2. Both parties fully represent that their signatures hereto fully bind themselves and their partners, successors, assigns, legal representatives, and those others to whom the benefits of this Agreement inure, to the terms of this Agreement and that the signatories hereto have the appropriate authority by and which to bind the above.

W. EXTENT OF AGREEMENT

W-1. This Agreement shall supersede and replace any oral or written agreement, not incorporated herein, relating to the subject matter hereof entered into by the parties prior to the date of this Agreement. This Agreement contains and sets forth the entire Agreement between the parties. No modifications, deletions, or additions to this Agreement will be binding unless in writing and signed by both parties, except as herein otherwise provided. The waver of any breach of this Agreement by any party hereto shall not constitute the same continuing waiver or waiver of any subsequent breach of either the same or another provision of the Agreement. All promises, covenants, and provisions contained in this Agreement are severable, and if such covenant, promise, or provision is held or adjudicated invalid by a court of competent jurisdiction, the remainder of this Agreement shall be of operative and binding effect.

X. APPLICABLE LAW

X-1. This Agreement, and the rights and duties hereunder, shall be interpreted in accordance with the internal laws of the State of Arizona without regard to conflicts-of-laws principles. All disputes under this Agreement shall be resolved pursuant to the Arizona School Procurement Code, A.A.C. R7-2-1155 *et seq.*, as the exclusive means of adjudicating controversies under this Agreement. This exclusive means of adjudication is entered into under the free will of both parties and in consideration of the Agreement.

Y. ATTORNEYS' FEES

Y-1. If any of the parties to this Agreement should take legal action or other steps to enforce the terms of this Agreement, the prevailing party or parties shall be entitled to recover their expenditures, including but not limited to, reasonable attorneys' fees; costs of tests, inspections, and reports by experts; costs of exhibit preparation; expert witness fees; and court costs from the party or parties at fault.

Z. EXHIBITS

Z-1. Any and all exhibits to this Agreement are incorporated into this Agreement.

AA. HEADINGS

AA-1. The subject headings of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any provisions of this Agreement.

BB. NOTICES

BB-1. All notices and other communications required or permitted by this Agreement shall be in writing and (1) delivered in person; (2) sent by certified first class mail, return receipt requested, postage prepaid; or (3) by commercial or United States Postal Service overnight delivery service, to the addresses set forth below or to such other addresses as the parties may hereafter designate by written notice. All such notices or other communications shall be deemed delivered immediately if delivered in person, five (5) days after deposit in the United States Postal Service first class mail if mailed, and on the following business day if sent by overnight service.

a. ***The District:***

[District Name]
[Address]
[City, State, Zip]
Attention:

b. ***The Project Manager:***

Attention: _____

c. ***The Architect:***

Attention: _____

CC. TIME OF ESSENCE

CC-1. Time is of the essence hereof.

CC-2. IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement at a legally convened meeting of the Governing Board of [District Name] this _____ day of _____, 2001.

[SCHOOL DISTRICT NAME]

By:
Superintendent

ARCHITECT

By: _____